IN THE

Supreme Court of the United States

OCTOBER TERM, 1972

STATE OF ILLINOIS, *Movant-Plaintiff,* vs. **STATE OF MICHIGAN,** *Defendant.*	**No. 57 Original**

MOTION FOR LEAVE TO FILE REPLY BRIEF

Now Comes the State Of Illinois and moves the Court, pursuant to the case of *Alabama* v. *Texas*, 347 U.S. 272, for leave to file a Reply to the Brief of the State of Michigan.

Respectfully submitted,

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REPLY BRIEF OF STATE OF ILLINOIS

The defendant, State of Michigan, disputing the original jurisdiction of this Court, asserts that the only proper procedure would be for the plaintiff to seek a writ of certiorari from this Court to the Supreme Court of Michigan. This idea overlooks the fact that the plaintiff, State of Illinois, was not a party to the Michigan Proceedings and that the Illinois Director of Insurance as Illinois Liquidator of Highway Insurance Company is an entirely different

legal person and is not invoking the original jurisdiction of this Court and indeed could not do so. It should be noted, the caption of this case is not "Director" or "liquidator" but the "State of Illinois" in its sovereign capacity as represented by its Attorney General. Contrary to the defendant's contention, the State of Michigan becomes involved in these original jurisdiction proceedings as party in interest because of the claim of the State of Illinois that the State of Michigan has violated its reciprocal treaty with the State of Illinois and has disregarded Illinois laws and writs to the latter's irreparable detriment. Even in this Court the State of Michigan asserts and recognizes only its Workmen's Compensation Statute and wrongfully refuses to recognize, much less honor, its treaty obligations with the State of Illinois.

Since the State of Illinois was not a party to the Michigan proceedings, it is not bound thereby and could not seek review of the decision there made nor of the disregard of Illinois injunctions.

The State of Illinois has a sovereign interest in the obligations of treaties it enters into and also is concerned about the disregard of Illinois injunctions and laws by other states. While the State of Michigan claims that none of its officers were a party in interest, an appropriate branch of the government of the State of Michigan was notified of the treaty obligations and of the Illinois injunction, and the government of the State of Michigan thereupon proceeded to violate its treaty with Illinois and proceeded to flagrantly disregard Illinois law and writs.

Formerly wars were resorted to by sovereign states to resolve their differences. Now, in civilized society, orig-

inal jurisdiction of the United States Supreme Court has been substituted for war.

It is well known that the granting of certiorari by this Court is one of the most celebrated of uncommon occurrences. Knowing that, the State of Michigan indicates that it was "safe" in having its courts violate Illinois treaty and injunction because the chances of this Court's review are almost nil. Whether a treaty with Illinois is enforceable cannot rest upon the fortuitous circumstance of a grant of certiorari in a case in which the State of Illinois is not even a party. The sovereign rights of the State of Illinois deserve better than that, as Illinois is sure this Court would agree. Nothing less than a forthright honest deference to treaty obligations and a direct and certain enforcement of them will satisfy basic concepts of justice.

The State of Michigan argues that the decisions of its court must be obeyed. If that be so, what about the decisions of Illinois courts? Why may a prior Illinois injunction then be violated by Michigan? Why does Michigan have a right to flagrantly violate its treaty with Illinois and flagrantly disregard Illinois law and injunction and then demand deference to its decisions? The State of Michigan is not superior to the State of Illinois. Equality must be the keynote in relations between states or deterioration will result.

Illinois treaty and law and injunction have been first violated by Michigan in a most flagrant way. What is the State of Michigan going to do about this? Condone it? Excuse it? Approve it? And will this Court permit that? Can the Union survive such precedents? Is Michigan's callous concern with the question of whether it will sustain a bene-

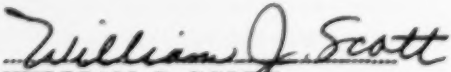
fit or a loss from these proceedings dispositive of the inherent justice of the case? If so, what of Illinois' sovereign rights, which formerly were protected by war and now are violated with impunity? Will this Court's original jurisdiction provide the catalyst? Or is this a grievance for which the State may find no redress under the system and form a basis of bad relations between two sovereign states? Must Illinois require a double payment from the reinsurer in order to enforce its rights?

While the State of Michigan recites the guaranty statutes that will prevent the instant problem from ever arising again, it would seem that there is nothing to prevent Michigan from violating those statutes as it has violated Illinois treaty, statute and injunction. Its pious recitations fall on deaf ears in Illinois because the action of the State of Michigan has spoken louder than its words. Moreover, Michigan's violation of Illinois treaty is, apart from the civil law aspects of the case, neither menial nor unimportant. Indeed, it is hoped that Michigan will never attempt another treaty violation.

The State of Illinois is confident that this court is concerned in preserving amicable relations between the states and that it will not permit procedure to insulate one state from the consequences of its treaty violations. History has shown that when a state's grievance is ignored and not redressed it often causes serious repercussions. Otherwise, each state must look hopelessly to a whole new concept of justice in its dealings with other states, and this may spell the ultimate death knell to the Union. No one state is more important than another state and the fabric of our jurisprudence must recognize this or defeat itself.

The State of Illinois is confident that this Court's concept of justice and of the preservation of the Union is not bogged down in procedural morass but is deeply concerned with a viable concept of justice that applies essential principles not only to ordinary citizens but to sovereign states as well.

Respectfully submitted,



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PROOF OF SERVICE

I, JOSEPH B. LEDERLEITNER, Special Assistant Attorney General of the State of Illinois and a member of the Bar of the Supreme Court of the United States hereby certify that on the 7th day of September, 1972, I served copies of the foregoing Motion for Leave to file Reply Brief and the Reply Brief on the Governor and Attorney General of the State of Michigan by depositing 5 copies in a United States post office or mail box, as certified mail, return receipt requested with air mail postage prepaid and addressed to:

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